

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Petition for Declaratory Ruling Whether	)	WC Docket No. 08-56
Voice over Internet Protocol Services)	
Are Entitled to the Interconnection Rights of)	
Telecommunications Carriers)	

COMMENTS OF COMCAST CORPORATION

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Dated: May 19, 2008

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EXHIBITS:

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Comcast Phone of Vermont, Before the Vermont Public Service
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COMMENTS OF COMCAST CORPORATION

Comcast Corporation (“Comcast”) hereby submits these comments in response to the above-captioned Petition for Declaratory Ruling filed with the Federal Communications Commission (“FCC” or “Commission”) by Vermont Telephone Company (“VTel”).¹ For the reasons set forth below, the Commission should summarily deny and dismiss VTel’s meritless attempt to prevent Comcast’s retail affiliate in Vermont from offering competitive choice to captive consumers in VTel’s service territory. Alternatively, the Commission should affirm expeditiously and unequivocally, based on well-established FCC precedent, that wholesale providers of telecommunications services, such as Comcast’s certificated affiliate in Vermont, are entitled to request and obtain interconnection with other telecommunications carriers, pursuant to sections 251 and 252 of the Communications Act of 1934, as amended (“Act”).²

¹ *Petition for Declaratory Ruling Whether Voice over Internet Protocol Services Are Entitled to the Interconnection Rights of Telecommunications Carriers*, Petition for Declaratory Ruling (filed April 11, 2008) (“VTel Petition” or “Petition”); *Pleading Cycle Established for Comments on Vermont Telephone Company’s Petition for Declaratory Ruling Regarding Interconnection Rights*, Public Notice, WC Docket 08-56, DA 08-916 (rel. April 18, 2008).

² As explained below, the other “policy clarifications” requested by VTel concern questions that have obvious answers or that are predicated on incorrect assumptions.

I. INTRODUCTION AND SUMMARY

The underlying factual premise of VTel's claim is demonstrably false. VTel's statements notwithstanding, the entity seeking interconnection with VTel is not a provider of retail Voice over Internet Protocol ("VoIP") services. The Comcast entity that seeks to interconnect with VTel is a wholesale "telecommunications carrier," and VTel has a statutory obligation to interconnect with that carrier so that it can provide telecommunications services in Vermont. That should end the matter. Specifically, the Vermont Public Service Board ("PSB") in 2006 issued a Certificate of Public Good ("CPG") to Comcast Phone of Vermont, LLC ("Comcast Phone"), authorizing Comcast Phone to provide "telecommunications services" within the state.³ Pursuant to this authority, Comcast Phone furnishes wholesale telecommunications services, including underlying transport, interconnection with the public switched network ("PSTN"), access to emergency services, exchange access, and numbering resources to Comcast IP Phone II, LLC ("Comcast Digital Voice"). The latter is a wholly owned affiliate of Comcast that offers retail interconnected VoIP services to end user residential and business customers in the state of Vermont. Under Vermont's regulatory requirements, Comcast Phone is also obligated to offer comparable wholesale

³ *Petition of Comcast Phone of Vermont, LLC for a certificate of public good to operate as a provider of telecommunications services in Vermont*, Certificate of Public Good Issued Pursuant to 30 V.S.A. Section 231, CPG No. 834-CR (Aug. 24, 2006) (certifying Comcast Phone for "the provision of telecommunications service, including service to the local exchange" and subjecting Comcast Phone to "the obligations of telecommunications carriers in Vermont," *id.* at 1); *Petition of Comcast Phone of Vermont, LLC for a certificate of public good to operate as a provider of telecommunications services in Vermont, including service to the local exchange*, Order, CPG No. 834-CR (Aug. 24, 2006) (issuing Certificate of Public Good for Comcast Phone to operate "as a telecommunications carrier within the state," *id.* at 1) (collectively attached hereto as Exhibit 1).

telecommunications services to others within the state, as indicated by the service guide that appears on the Comcast.com website.⁴

The Vermont PSB expressly reaffirmed in 2006 that Comcast Phone is a telecommunications carrier with the right to interconnect. Specifically, the state board reviewed and approved, pursuant to section 252 of the Act, an interconnection agreement that Comcast Phone had negotiated with Verizon New England. In ratifying the agreement, the Vermont PSB explicitly noted that it was “the result of arms-length negotiations between two telecommunications carriers.”⁵ Therefore, Comcast Phone has already been found to be a telecommunications carrier.

By letter dated January 10, 2008, Comcast Phone requested interconnection with VTel, an independent incumbent local exchange carrier, pursuant to the terms of sections 251 and 252 of the Act.⁶ The letter identified Comcast Phone as a telecommunications carrier certificated to provide telecommunications services in the state of Vermont.⁷

Despite repeated oral and written status inquiries by Comcast Phone, VTel provided no substantive response to the interconnection request and provided no advance notice to Comcast Phone that it intended to raise the issues set forth in its Petition for Declaratory

⁴ Comcast Phone has posted such service guide even though a web posting is not required under established federal law for Comcast Phone to satisfy the requirement to hold itself out as a common carrier for such services.

⁵ *Interconnection Agreement between Verizon New England Inc., d/b/a Verizon Vermont, and Comcast Phone of Vermont*, Docket No. 7219, Order Approving Interconnection Agreement, at 2 (Vt. PSB Nov. 30, 2006) (attached hereto as Exhibit 2).

⁶ Letter to Michelle Page, Vermont Telephone Company, Inc. from Beth Choroser, Comcast Corporation (Jan. 10, 2008) (attached hereto as Exhibit 3) (“*Comcast Phone Interconnection Request*”).

⁷ *Id.* at 2.

Ruling. VTel filed its Petition with the Commission on April 11, 2008, three months after Comcast Phone sent its January letter.

As explained below, VTel's Petition is replete with inaccurate statements, including many that are contradicted by facts that VTel knew or should have known. It is, thus, not surprising that the three questions on which the Petition seeks "clarification" are either spurious or easily answered.

The first question in the VTel Petition, whether only "telecommunications carriers" are entitled to interconnection under Sections 251 and 252,⁸ has an obvious affirmative answer requiring no clarification from the Commission. VTel's second question, whether VoIP providers are entitled to interconnection pursuant to Sections 251 and 252 when they assert they are not "telecommunications carriers,"⁹ is irrelevant to Comcast Phone's interconnection request because Comcast Phone is not a VoIP provider and has been certificated by the Vermont PSB to offer telecommunications services in the state. VTel's third question, whether "Comcast is a telecommunications carrier . . . entitled to interconnection,"¹⁰ is similarly premised upon the erroneous assumption that Comcast Phone is a VoIP provider, which it is not.

Well-established Commission and judicial decisions make it clear that Comcast Phone, as a certificated telecommunications carrier providing wholesale services, is entitled to interconnection under sections 251 and 252. The Commission, therefore, should

⁸ VTel Petition at 8.

⁹ *Id.*

¹⁰ *Id.*

summarily deny and dismiss VTel's declaratory ruling request, because no declaratory relief is warranted in the absence of any pressing controversy or uncertainty.¹¹

This issue is far from academic. Comcast Phone has requested interconnection with VTel so that Comcast's retail VoIP affiliate can compete effectively to serve VTel's customers. VTel's refusal to provide such interconnection is plainly intended to undermine Comcast's ability to compete. The Commission should not allow its processes to be used to advance VTel's anticompetitive goals.

II. COMCAST PHONE AS A PROVIDER OF WHOLESALE TELECOMMUNICATIONS SERVICES IS ENTITLED TO INTERCONNECTION UNDER SECTIONS 251 AND 252

The Commission and courts have long held that wholesale providers of telecommunications service are telecommunications carriers for purposes of sections 251(a) and (b) of the Act, and are entitled to the rights of telecommunications carriers under that provision. Last year, in the *Time Warner Interconnection Order*, the Wireline Competition Bureau ("Bureau") expressly "reaffirm[ed]" this holding.¹² This reaffirmation – along with the prior decisions on which the Bureau relied – establishes that Comcast Phone is entitled to interconnection with other carriers, including VTel.¹³

¹¹ *Lorillard Tobacco Company; Motion for Declaratory Ruling Re: Section 73.1206 of the Commission's Rules*, Order, 22 FCC Rcd 4917, ¶ 5 (2007).

¹² *Time Warner Cable Request for Declaratory Ruling that Competitive Local Exchange Carriers May Obtain Interconnection Under Section 251 of the Communications Act of 1934, as Amended, to Provide Wholesale Telecommunications Services to VoIP Providers*, Memorandum Opinion and Order, 22 FCC Rcd 3513, ¶ 1 (WCB 2007) ("*Time Warner Interconnection Order*").

¹³ In addition to the earlier decisions on which the Bureau relied, at least three federal courts have agreed with the *Time Warner Interconnection Order* since its release. *Iowa Telecomms. Servs., Inc. v. Iowa Utils. Bd.*, No. 4:06-cv-00291-JAJ, slip op. at 12-14 (S.D. Iowa Apr. 15, 2008); *Consol. Commc'ns of Fort Bend Co. v. Pub. Util. Comm'n of Tex.*, Memorandum Opinion and Order, 497 F.Supp.2d 836, 846 (W.D. Tex. 2007); *Sprint*

The reasoning of the *Time Warner Interconnection Order* is instructive because it expressly applies to carriers like Comcast Phone that provide wholesale telecommunications services to retail VoIP providers. Indeed, the Bureau adopted the *Time Warner Interconnection Order* in response to a petition filed by a retail VoIP provider (Time Warner Cable, or “TWC”) that purchased wholesale telecommunications services from certain telecommunications carriers (MCI and Sprint) to connect TWC’s VoIP service customers with the PSTN.¹⁴ Two state commissions had found that these wholesale providers were not “telecommunications carriers” for the purposes of section 251 of the Act, and were, therefore, not entitled to interconnect with incumbent LECs. TWC for that reason asked the Commission to reaffirm that telecommunications carriers are entitled to obtain interconnection with incumbent LECs to provide wholesale telecommunications services to other services providers, including retail VoIP providers like TWC.¹⁵

In granting TWC’s petition, the Bureau made two key findings. First, the Bureau found that “providers of wholesale telecommunications services enjoy the same rights as any ‘telecommunications carrier’ under [sections 251(a) and (b)] of the Act.”¹⁶ The Bureau based this finding, in part, on the statutory definitions of “telecommunications carrier” and “telecommunications service.” The Act defines a “telecommunications carrier” to mean “any provider of telecommunications services, except that such term does not include aggregators of telecommunications services.”¹⁷ The Act defines “telecommunications service” to mean

Commc’ns Co. L.P. v. Neb. Pub. Serv. Comm’n, No. 4:05-cv-3260, 2007 U.S. Dist. LEXIS 66902, slip op. at 17-32 (D. Neb. Sept. 7, 2007).

¹⁴ *Time Warner Interconnection Order* ¶ 2.

¹⁵ *Id.* ¶¶ 3-4.

¹⁶ *Id.* ¶ 9.

¹⁷ 47 U.S.C. § 153(44).

“the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.”¹⁸ Based on a review of prior FCC and court precedents, the Bureau found that the wholesale telecommunications services purchased by TWC – including transport for the origination and termination of traffic on the PSTN, connectivity to the incumbent’s E911 network, and “other necessary components as a wholesale service”¹⁹ – were offered for a fee directly to the public, and therefore were “telecommunications services.”²⁰ Accordingly, the providers of wholesale services to TWC were properly classified as “telecommunications carriers,” including for purposes of section 251.²¹ The Bureau emphasized that this classification was

¹⁸ 47 U.S.C. § 153(46). The Act defines “telecommunications,” in turn, to mean “the transmission, between or among points specified by the user, of information of the user’s choosing, without change in the form or content of the information as sent and received.” 47 U.S.C. § 153(43).

¹⁹ *Time Warner Interconnection Order* ¶ 2.

²⁰ *Id.* ¶¶ 9-12. State commissions and federal district courts around the country have likewise recognized that the PSTN interconnection and related services that carriers like Comcast Phone provide to VoIP service providers qualify as telecommunications services. *See, e.g., Iowa Telecomms. Servs., Inc. v. Iowa Utils. Bd.*, No. 4:06-cv-00291-JAJ, slip op. at 12-14 (S.D. Iowa Apr. 15, 2008), *aff’g Sprint Commc’ns Co. LP v. ACE Comm. Group*, Order on Rehearing, Docket No. ARB-05-2, 2005 Iowa PUC LEXIS 497 (Iowa Util. Bd. Nov. 28, 2005); *Consol. Commc’ns of Fort Bend Co. v. Pub. Util. Comm’n of Tex.*, Memorandum Opinion and Order, 497 F.Supp.2d 836, 846 (W.D. Tex. 2007), *aff’g Petition of Sprint Commc’ns Co. LP*, Order, Docket No. 32582, 2006 Tex. PUC LEXIS 43 (Tex. PUC Aug. 14, 2006); *Sprint Commc’ns Co. LP*, Order, Appl. No. A-310183F0002AMA, 2006 Pa. PUC LEXIS 97 (Pa. PUC Nov. 30, 2006); *Cambridge Tel. Co.*, Order, Docket No. 05-0259, 2005 Ill. PUC LEXIS 379 (Ill. Commerce Comm’n July 15, 2005); *Sprint Commc’ns Co. L.P. v. Neb. Pub. Serv. Comm’n*, No. 4:05-cv-3260, 2007 U.S. Dist. LEXIS 66902 (D. Neb. Sept. 7, 2007), *reversing Sprint Commc’ns Co. LP*, Opinion and Findings, Appl. No. C-3429, 2005 Neb. PUC LEXIS 174 (Neb. PSC Sept. 13, 2005); *Berkshire Tel. Corp. v. Sprint Commc’ns Co. LP*, No. 05-cv-6502-CJS, 2006 U.S. Dist. LEXIS 78924 (W.D.N.Y. Oct. 30, 2006), *aff’g Sprint Commc’ns Co. LP*, No. 05-C-0170, Order Resolving Arbitration Issues, 2005 N.Y. PUC LEXIS 228 (N.Y. PSC May 24, 2005) and Order Denying Rehearing, 2005 N.Y. PUC LEXIS 345 (N.Y. PSC Aug. 24, 2005).

²¹ As the Bureau explained, the Commission has previously “expressly rejected” arguments that a wholesale service offered to other providers cannot be a

appropriate even if the wholesale provider offered services that were of possible use to only a fraction of the population.²² As long as the wholesale providers hold themselves out to serve indifferently all potential users,²³ and do in fact provide telecommunications services on a wholesale basis, those providers are properly classified as telecommunications carriers under section 251.²⁴

The Bureau's second key finding was that the section 251(a) and (b) rights of a wholesale telecommunications carrier do not depend on the regulatory classification of the

telecommunications service because it is not offered "directly to the public." *Time Warner Interconnection Order* ¶ 11 & n.24 (citing *Implementation of the Non-Accounting Safeguards of Section 271 and 272 of the Communications Act of 1934, as Amended*, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 21905, ¶ 264 (1996); *Implementation of the Non-Accounting Safeguards of Section 271 and 272 of the Communications Act of 1934, as Amended*, Second Order on Reconsideration, 12 FCC Rcd 8653, ¶ 33 (1997); *Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776, ¶ 785 (1997)). See also *Time Warner Interconnection Order* ¶ 12 (summarizing the reasoning and holdings of these prior FCC precedents, and quoting *Virgin Islands Tel. Co. v. FCC*, 198 F.3d 921, 930 (D.C. Cir. 1999) ("the focus of [the FCC's] analysis is on whether AT&T-SSI offered its services indiscriminately in a way that made it a common carrier . . . and the fact that AT&T-SSI could be characterized as a wholesaler was never dispositive.")).

²² *Time Warner Interconnection Order* ¶ 12 (citing *National Ass'n of Regulatory Util. Comm'rs v. FCC*, 533 F.2d 601, 608 (D.C. Cir. 1976) ("a specialized carrier whose service is of possible use to only a fraction of the population may nonetheless be a common carrier if he holds himself out to serve indifferently all potential users.")).

²³ Stated differently, "[t]he key factor is that the operator offer indiscriminate service to whatever public its service may legally and practically be of use." *Nat'l Ass'n of Regulatory Util. Comm'rs v. FCC*, 525 F.2d 630, 642 (D.C. Cir. 1976), *cert den.* 425 U.S. 992 (1976); see also *Virgin Islands Tel. Corp.*, 198 F.3d at 927. Comcast Phone offers wholesale service to any entity in Vermont to which that service may be of use.

²⁴ *Time Warner Interconnection Order* ¶¶ 12, 14. Comcast Phone currently provides services to only one customer (Comcast Digital Voice), but common carriers routinely offer service packages for "a single customer [that] are specifically designed to meet the needs of only that customer." *MCI Telecomms. Corp. v. FCC*, 917 F.2d 30, 34 (D.C. Cir. 1990). Indeed, a service provider may be deemed a common carrier even where it "is not yet actually supplying service to any customers" in a particular area. *Fiber Techs. Networks, LLC v. North Pittsburgh Tel. Co.*, Memorandum Opinion and Order, 22 FCC Rcd 3392, ¶ 20 (EB 2007).

retail service offered by the carrier's customer to an end user.²⁵ Thus, regardless of whether a retail VoIP service is classified as an information service or a telecommunications service, the wholesale provider of telecommunications service to the VoIP provider is entitled to interconnection under sections 251(a) and (b).²⁶

The Commission's precedent and case law clearly establish that Comcast Phone is entitled to seek interconnection with VTel under sections 251(a) and (b). Comcast Phone provides the same type of wholesale services, to the same type of retail VoIP provider, as were at issue in the *Time Warner Interconnection Order*. Moreover, like the wholesale providers of service to TWC, Comcast Phone holds itself out indifferently to provide its wholesale services to the public for a fee.²⁷ Given these congruities, there is no need for the Commission to answer VTel's query as to whether Comcast Phone is entitled to interconnection with VTel under section 251. That question has already been answered in the affirmative by the *Time Warner Interconnection Order*, and there is no need for the Commission to revisit it now – particularly since the *Time Warner Interconnection Order* was itself already a “reaffirm[ation]” of the well-established rule that wholesale providers of

²⁵ *Time Warner Interconnection Order* ¶¶ 9, 15.

²⁶ *Id.* ¶ 15.

²⁷ As noted above, the Vermont PSB has at least twice found that Comcast Phone is a telecommunications carrier. Comcast Phone makes those offerings indiscriminately available to the public. Although self-certification that one is holding oneself out indiscriminately to the public is sufficient, Comcast Phone is doing much more than that. Comcast Phone is not permitted to tariff its wholesale offerings in Vermont, but it has published those offerings on its website.

telecommunications services are telecommunications carriers for purposes of sections 251(a) and (b) of the Act.²⁸

III. MATERIAL MISCHARACTERIZATIONS AND FACTUAL ERRORS PERVADE VTEL'S PETITION

As noted above, the Petition mischaracterizes, misstates, or omits a number of material facts that VTel knows or should know. Comcast takes this opportunity to set the record straight.

The arguments that VTel advances in support of its request for a declaratory ruling are based on mischaracterizations of the underlying corporate structure under which Comcast provides wholesale telecommunications and retail VoIP services through separate affiliated entities. VTel, for example, asserts that it is uncertain whether Comcast Phone is a wholesale telecommunications carrier in Vermont. As VTel is well aware, however, Comcast Phone has been certificated to provide service in the State of Vermont. Moreover, shortly before filing its petition with the FCC, VTel was served with the direct testimony of a Comcast witness in a pending Vermont state regulatory proceeding, which states that Comcast Phone is a provider of wholesale telecommunications services in Vermont and, in particular, provides these services to its retail affiliate, Comcast Digital Voice.²⁹

²⁸ *Time Warner Interconnection Order* ¶ 1. It is striking that VTel did not mention or cite the *Time Warner Interconnection Order* even once in its Petition, even though VTel assiduously drew upon and cited a number of other far less relevant precedents. This self-serving omission suggests that it is VTel – and not, as VTel claims, Comcast – that seeks to “cherry pick” the regulatory obligations and precedents with which it must comply. VTel Petition at 8.

²⁹ *See Investigation into regulation of Voice over Internet Protocol (“VoIP”) services*, Vt. PSB Docket No. 7316, Prefiled Direct Testimony of David Kowolenko on behalf of Comcast Phone of Vermont, LLC, at 6-7 (April 7, 2008) (relevant pages attached hereto as Exhibit 4).

VTel further erroneously claims that the Comcast entity seeking interconnection is a VoIP provider.³⁰ The first sentence of the *Comcast Phone Interconnection Request* identifies “Comcast Phone of Vermont, LLC” as the entity making the interconnection request, and the second page of that letter states that Comcast Phone is certificated by the Vermont PSB.³¹ VTel similarly mischaracterizes Comcast Phone’s interconnection request by claiming that “[t]he service for which Comcast requests an interconnection agreement . . . is its ‘Digital Voice’ service.”³² Comcast Phone did not specify the services for which it sought interconnection, nor is it required to do so. But Comcast Phone is a provider of wholesale telecommunications services, and it does not provide, nor has it ever provided, “Digital Voice” service, and nowhere in the *Comcast Phone Interconnection Request* is that service mentioned. Moreover, as the *Time Warner Interconnection Order* makes clear, what a retail purchaser of wholesale telecommunications services may do with those offerings is irrelevant to the wholesale provider’s status as a telecommunications carrier.

VTel misleadingly states that “Comcast itself has frequently denied that it has, or wants to have, ‘telecommunications carrier’ status.”³³ In fact, Comcast Phone holds a CPG to provide competitive local exchange service in the state of Vermont and represented as much to VTel in its interconnection request.³⁴ Comcast Phone has never denied this status nor has it ever suggested that it does not wish to have this status. To the contrary, Comcast operates state-certified CLECs offering wholesale telecommunications services in every

³⁰ VTel Petition at 2.

³¹ See *Comcast Phone Interconnection Request* at 1, 2.

³² VTel Petition at 2.

³³ *Id.* at 5.

³⁴ See *Comcast Phone Interconnection Request* at 2.

single state in which it also operates retail VoIP providers, and it has uniformly embraced its CLEC obligations in each of these states.

VTel also wrongly conflates Comcast's high-speed Internet service subsidiary with its competitive LEC, misrepresenting a letter to Chairman Martin in which Comcast noted that its *retail high-speed Internet access service* is an information service, and that the FCC does not have authority to regulate high-speed Internet access as a common carrier service. In contrast, Comcast Phone should be, and in fact is, regulated as a provider of telecommunications service.³⁵

Finally, contrary to VTel's claim, Comcast Phone's affiliates have not requested authority to discontinue operations as competitive LECs in at least seventeen states.³⁶ Only a single service offering was discontinued in these states: Comcast Phone's circuit-switched plain old telephone service retail offering. Comcast Phone's Section 63.71 Discontinuance Application filed with the FCC makes it abundantly clear that "Comcast Phone will continue to provide other telecommunications services in the Service Areas after the proposed discontinuance."³⁷ VTel's accusation of regulatory arbitrage³⁸ is false and unexplained. Comcast is not engaged in any arbitrage whatsoever; Comcast Phone is engaged in offering

³⁵ See, e.g., 47 U.S.C. § 153(44) ("[A] telecommunications carrier shall be treated as a common carrier under this Act only to the extent that it is engaged in providing telecommunications services").

³⁶ VTel Petition at 6.

³⁷ *Section 63.71 Application of Comcast Phone of Massachusetts, Inc., Comcast Phone of New Hampshire, LLC, Comcast Phone of Ohio, LLC, and Comcast Phone of Pennsylvania, LLC for Authority Pursuant to Section 214 of the Communications Act to Discontinue the Provision of Comcast Digital Phone Telecommunications Service in Massachusetts, New Hampshire, Ohio, and Pennsylvania*, WC Docket No. 08-45, Section 63.71 Application, at 2 (Feb. 20, 2008). In addition, the list of states for which Comcast Phone submitted discontinuance applications does not include Vermont.

³⁸ VTel Petition at 7.

wholesale telecommunications services while its retail VoIP affiliate offers services that compete with VTel's telephone service. That is competition, not arbitrage. It is VTel that is acting in a manner that is inconsistent with pro-competitive goals by seeking to prevent the entry of a facilities-based competitor while also seeking the benefits of rate deregulation in Vermont on the theory that it faces competition.³⁹

Finally, VTel is under a statutory obligation to negotiate in good faith. It therefore may not use its pretextual confusion about its interconnection obligations to re-initiate or toll the statutory time period for reaching an interconnection agreement with Comcast Phone.⁴⁰ As the Commission has stated, "actions that are intended to delay negotiations or resolution of disputes are inconsistent with the statutory duty to negotiate in good faith. The Commission will not condone any actions that are deliberately intended to delay competitive entry, in contravention of the statute's goals."⁴¹

IV. CONCLUSION

The VTel Petition should be seen for what it is – an attempt to thwart facilities-based entry in VTel's territory. The mandate from Congress in sections 251 and 252 is clear: the law requires that VTel interconnect with Comcast Phone and any other telecommunications service provider that seeks to compete with VTel. For the foregoing reasons, the Commission should deny and dismiss the VTel Petition in its entirety. Alternatively, the Commission should conclude that Comcast Phone as a wholesale provider of

³⁹ See 30 V.S.A. § 227d (allowing deregulation of small telecommunications carriers in service areas where a competitive Eligible Telecommunications Carrier has been designated).

⁴⁰ 47 U.S.C. § 252(b)(2).

⁴¹ *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers*, First Report and Order, 11 FCC Rcd 15499, ¶ 154 (1996) (subsequent history omitted).

telecommunications service is entitled to interconnection under sections 251 and 252 of the Act. In either case, the Commission should make clear that the interconnection negotiations between Comcast Phone and VTel commenced on January 14, 2008 and were not tolled by virtue of the Petition or this proceeding.

Respectfully submitted,

/s/ Kathryn A. Zachem

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Dated: May 19, 2008

Certificate of Service

I, Ruth E. Holder, hereby certify that on this 19th day of May, 2008, I caused a true and correct copy of the foregoing Comments of Comcast Corporation to be mailed by first class U.S. mail, postage prepaid, to:

James U. Troup
VENABLE LLP
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Washington, DC 20004

Counsel for Vermont Telephone Company

Additionally, I caused a true and correct copy of the foregoing Comments of Comcast Corporation to be mailed by electronic mail to:

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/s/ Ruth E. Holder
Ruth E. Holder

Exhibit 1

STATE OF VERMONT
PUBLIC SERVICE BOARD

CPG No. 834-CR

Petition of Comcast Phone of Vermont, LLC for a)
certificate of public good to operate as a provider)
of telecommunications services in Vermont)

Entered: 8/24/2006

CERTIFICATE OF PUBLIC GOOD
ISSUED PURSUANT TO 30 V.S.A. SECTION 231

IT IS HEREBY CERTIFIED that the Public Service Board of the State of Vermont ("Board") on this day finds and adjudges that the issuance of a certificate of public good ("CPG") to Comcast Phone of Vermont, LLC ("Comcast") and that the provision of telecommunications services, including service to the local exchange, by Comcast will promote the general good of the State of Vermont, subject to the following conditions:

1. Comcast is subject to the provisions of Title 30, Vermont Statutes Annotated, to the same extent as other regulated utilities.
2. Comcast shall terminate all telecommunications traffic routed to its customers by any telecommunications carrier with which Comcast interconnects.
3. Comcast may participate in any Board investigation into local competition and/or competitive access services. Comcast shall be bound to comply with any lawful requirement imposed by the Board governing the obligations of telecommunications carriers in Vermont.
4. Comcast's books, accounts, statements, and other financial records shall, in accordance with Vermont law, be made available for examination by the Board or the Vermont Department of Public Service.
5. This CPG may not be transferred to any other party without prior approval by the Board.
6. Comcast is conducting business in the State of Vermont under the name Comcast Phone of Vermont, LLC, d/b/a Comcast Digital Phone, and has filed appropriate documents with the Secretary of State. If Comcast intends to do business in the State of Vermont under a name other than the name in use on the date of this Order, it shall file a notice of the new trade name

with the Clerk of the Board and the Vermont Department of Public Service at least 15 days prior to commencing business under the new trade name.¹

7. If Comcast at any time in the future proposes to offer operator services, it shall be required to comply with Board Rule 7.609(G).

8. If Comcast at any time in the future proposes to offer prepaid calling card services, it shall post a bond, payable to the Board, in an amount equivalent to its projected intrastate revenues from its prepaid calling card service for the first twelve (12) months of operation.

9. Comcast shall be subject to any rules lawfully adopted or to be adopted by the Board, and its CPG hereby incorporates those rules by reference. Comcast's CPG shall be subject to revocation upon good cause, including a substantial or continuous failure to abide by its material terms.

Dated at Montpelier, Vermont, this 24th day of August, 2006.

<u>s/James Volz</u>)	
	)	PUBLIC SERVICE
)	
<u>s/David C. Coen</u>	)	BOARD
)	
	)	OF VERMONT
<u>s/John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: AUGUST 24, 2006

ATTEST: s/Susan M. Hudson
Clerk of the Board

Notice to Readers: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: Clerk@psb.state.vt.us)

1. For a corporate name change, see 11 V.S.A. § 4.01 and 30 V.S.A. § 231. Petitioner may wish to contact the Clerk of the Board for assistance.

STATE OF VERMONT
PUBLIC SERVICE BOARD

CPG No. 834-CR

Petition of Comcast Phone of Vermont, LLC for a)
certificate of public good to operate as a provider of)
telecommunications services in Vermont, including)
service to the local exchange

Order entered: 8/24/2006

I. INTRODUCTION

Comcast Phone of Vermont, LLC, d/b/a Comcast Digital Phone ("Comcast" or the "Company"), requests issuance of a certificate of public good ("CPG"), pursuant to 30 V.S.A. § 231, to provide intrastate telecommunications service in Vermont, including service to the local exchange. In this Order, the Vermont Public Service Board ("Board") concludes that Comcast should be issued a CPG as requested to allow the Company to begin operating as a telecommunications carrier within the state.

II. PROCEDURAL HISTORY

On July 6, 2006, Comcast, pursuant to 30 V.S.A. § 231 and the rules and regulations of the Board, filed a Telecommunications Provider Registration Form ("Registration Form") and the required accompanying documentation, seeking a CPG to offer resold and facilities-based interexchange telecommunications services in the State of Vermont. On July 21, 2006, the Vermont Department of Public Service ("Department") filed a letter with the Board in which it recommended that a CPG be granted without the need for investigation or hearings. The Board has reviewed the petition and accompanying documents and agrees that a CPG should be issued without hearing. As a result, newspaper publication is not required prior to issuance of the CPG. 30 V.S.A. §§ 102(a), 231(a).

Based upon the Registration Form and accompanying documents, the Board makes the following findings.

III. FINDINGS

1. Comcast has all the necessary authority to transact business in Vermont. Comcast is incorporated in Delaware and was granted its Certificate of Organization to transact business in Vermont on March 13, 2006. Registration Form at Attachment C1.

2. Comcast proposes to provide resold and facilities based telecommunications services throughout Vermont. Registration Form at 2.

3. Comcast is not currently registered to provide telecommunications services. Registration Form at 3.

4. Comcast has provided the necessary documentation regarding management structure and financial information. Registration Form at 5.

5. Comcast has not filed for bankruptcy and has never been the subject of an investigation by a state or federal authority. Registration Form at 4.

IV. DISCUSSION

Sections 102 and 231 of Title 30, V.S.A., require that a CPG be issued before a company can offer telephone service to the public in Vermont. Such entry regulation statutes were traditionally designed for two purposes. The first is to protect consumers against incompetent or dishonest businesses. The second was to protect existing providers by limiting or eliminating their competitors. See, e.g., Docket No. 5012, *Petition of Burlington Telephone Company*, Order of 5/27/86.

The first rationale for entry regulation -- "consumer protection" -- remains one of the Board's policy objectives. Having reviewed the petition of Comcast and all related materials, the Board concludes that the evidence does not demonstrate that the technical, managerial and financial resources are inadequate. When combined with alternatives available in a competitive marketplace and recognizing that consumers are free to use another competitor's services with minimal transaction cost, we conclude that concerns for consumer protection have been sufficiently addressed. Concerns for consumer protection are, therefore, not cause for rejection of Comcast's petition nor do they warrant an investigation at this time.

The second -- or "franchise protection" -- rationale was rejected by the Board, after careful consideration in Docket No. 4946. In that Docket's Order of February 21, 1986, the

Board concluded that, despite all its dangers and inherent drawbacks, the public benefits of competition outweighed any flaws, and that competition should be permitted in Vermont's markets for message telephone service and other communications services.

Vermont policy, established by the Board and enunciated through the State Telecommunications Plan ("Plan") (adopted by the Department), has firmly supported opening the local exchange market to competition. This policy has been reaffirmed by the Board in Docket 5713, the Board's investigation into competition in the telecommunications arena and Docket 5909, in which the Board authorized Hyperion Telecommunications of Vermont, Inc. ("Hyperion") to provide local exchange competition.¹

The Board's support for competitive entry is consistent with the state's telecommunications policies as set out in the State Telecommunications Plan. That Plan clearly states that competition is the preferred strategy to achieve Vermont's goals of reasonable price, availability and high quality of service provided that there is adequate assurance that the needs of all consumers will be met. The Plan also encourages the Board to create a "framework to facilitate competition, while assuring affordable basic service rates, high quality of service, consumer protection, and universal service via interconnection agreements and Docket No. 5713 investigation and decisions."² The Board has moved to establish such a framework in various rulings over the last several years.

Federal law also applies to the broader questions of competitive entry. Under Section 253(a) of the Telecommunications Act of 1996 ("Act") which amended the Communications Act of 1934, states may not "prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service." States retain authority, however, to:

impose, on a competitively neutral basis and consistent with Section 254 [47 U.S.C.A. § 254], requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the

1. Docket 5713, Order of 5/29/96 at 13 (later stages of that proceeding will further define the framework for telecommunications competition within the state); Docket 5909, Order of 1/14/97.

2. Vermont Telecommunications Plan (dated December 1996) at iii.

continued quality of telecommunications services, and safeguard the rights of consumers.³

Thus, federal law makes clear that states cannot bar competitive entry. State commissions may still require new service providers to obtain franchises (or, in Vermont, CPGs), although they may not use that authority to prohibit all competitive entry.⁴ Vermont also may continue to impose competitively neutral conditions to achieve the purposes enunciated in Section 253(b).

Pursuant to Board Rule 7.500, non-dominant telecommunications carriers, including Comcast, are no longer required to file tariffs with the Board. However, all carriers should familiarize themselves with the consumer protection provisions contained in Board Rule 7.600. In particular, Carriers intending to provide operator services should review the rules governing provision of these services in section 7.609(G) of the rules.

Additionally, the Company should be aware of the Board's policy in connection with the provision of prepaid calling card service. The Board has imposed such a requirement on new entrants into the Vermont market that provide debit prepaid calling card services. See C.P.G. No. 145, Order of 7/13/94, and C.P.G. No. 146, Order of 8/17/94. As we noted in our Orders in C.P.G. Nos. 145 and 146, the public utilities commissions of several states have expressed concern about the potential risks to consumers associated with payment in advance of receipt of service, and we have the same concern.⁵ Consequently, we ordered World Telecom Group and Quest Telecommunications Inc. to post a bond, payable to the Board, in an amount equal to their projected Vermont intrastate revenues for the first 12 months of operation. We also stated that we would examine the issue of whether this requirement should be instituted on an industry-wide basis in our informal rulemaking proceeding.

3. 47 U.S.C.A. § 253(b).

4. *In the Matter of Classic Telephone, Inc.*, Memorandum Opinion and Order, FCC CCBPol 96-10 at paragraph 28 (October 1, 1996).

5. In this regard, we note that the DPS has asked several other prospective providers of debit cards to comply with more than 30 separate suggested requirements designed to protect consumers. See, e.g., C.P.G. #156, Petition of IDB WorldCom Services, Inc., Letter from DPS to IDB WorldCom Services, Inc. dated May 26, 1994. In its letter to IDB WorldCom, the DPS states that its suggested requirements are "merely a guideline to certain consumer protection concerns" and are not required by the Public Service Board. *Id.* at 3. We confirm that we have not endorsed the requirements suggested by the DPS. However, we will review the DPS' proposed requirements and, if appropriate, may consider including some of them in our draft rules.

We make a distinction, however, between new entrants into the Vermont market that provide only debit card service, and long-term participants that offer a multitude of services and that simply seek to add debit card service to their choice of service offerings. For this latter group, we do not impose a bond requirement, on the theory that the provider is already established in Vermont, offers several services that are provided on an on-going basis, and would be unlikely to "take the money and run."

Since we do not know how much of its business will be devoted to prepaid calling card services, we conclude that the most sensible approach is to inform the Company that should it decide to include the provision of debit cards among its service offerings, it will be required to post a bond, payable to the Board, in an amount equal to its projected Vermont intrastate revenues from its prepaid calling card services, for the first 12 months of operation. This approach will be fair to the Company, fair to the public, and consistent with the theory that underlies the Board's treatment of other telecommunications providers offering debit card services.

V. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. Based on the above findings, discussion and conclusion, the provision of intrastate telecommunications services by Comcast Phone of Vermont, LLC ("Comcast") will promote the general good of the State of Vermont, pursuant to the provisions of 30 V.S.A. § 231. A certificate of public good ("CPG") shall be issued to that effect, subject to the conditions contained in the CPG.

2. If Comcast at any time in the future proposes to offer operator services, it shall be required to comply with Board Rule 7.609(G).

3. If Comcast at any time in the future proposes to offer prepaid calling card services, it shall post a bond, payable to the Board, in an amount equivalent to its projected intrastate revenues from its prepaid calling card service for the first twelve (12) months of operation.

4. Comcast is conducting business in the State of Vermont under the name Comcast Phone of Vermont, LLC, d/b/a Comcast Digital Phone, and has filed appropriate documents with the Secretary of State. If Comcast intends to do business in the State of Vermont under a name

other than the name in use on the date of this Order, it shall file a notice of the new trade name with the Clerk of the Board and the Vermont Department of Public Service at least 15 days prior to commencing business under the new trade name.⁶

Dated at Montpelier, Vermont, this 24th day of August, 2006.

<u>s/James Volz</u>)	
)	
	)	PUBLIC SERVICE
<u>s/David C. Coen</u>)	
	)	BOARD
)	
<u>s/John D. Burke</u>	)	OF VERMONT

OFFICE OF THE CLERK

FILED: August 24, 2006

ATTEST: s/Susan M. Hudson
Clerk of the Board

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Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.

6. For a corporate name change, see 11 V.S.A. § 4.01 and 30 V.S.A. § 231. Petitioner may wish to contact the Clerk of the Board for assistance.

Exhibit 2

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7219

Interconnection Agreement between Verizon New)
England Inc., d/b/a Verizon Vermont, and Comcast)
Phone of Vermont)

Order entered: 11/30/2006

ORDER APPROVING INTERCONNECTION AGREEMENT

I. BACKGROUND

On September 27, 2006, Comcast Phone of Vermont, d/b/a Comcast Digital Phone ("Comcast"), and Verizon New England Inc., d/b/a Verizon Vermont ("Verizon"), requested that, pursuant to Section 252(e) of the Telecommunications Act of 1996 (the "Act"), the Vermont Public Service Board ("Board") approve the adoption, with the exclusions detailed below, of the Interconnection Agreement as negotiated between Global NAPs, Inc. and Verizon, that was approved as an effective agreement by the Board.¹ The parties state that the new Interconnection Agreement ("Agreement"), adopting the Global NAPs/Verizon Agreement, shall be effective as of June 22, 2006.

On October 2, 2006, the Board solicited a recommendation from the Vermont Department of Public Service ("Department"). The Department, by letter dated October 24, 2006, recommended that the Board approve the Agreement in whole, finding that the Agreement does not violate Section 252 of the federal Telecommunications Act of 1996 and that the Agreement does not contain terms that will harm Vermont consumers or competitors.

II. DISCUSSION

The Board's review of the Agreement is governed by the federal law that authorizes such agreements. Under Subsection 252(a) of the Act, any interconnection agreement negotiated under Section 252(a) must be submitted to the State commission for review under Section

¹ Docket 6742, Order of December 26, 2006. The conforming Interconnection Agreement was approved on February 10, 2003.

252(e).² The State commission has the authority to "approve or reject the agreement, with written findings as to any deficiencies." The Board may not reject the proposed interconnection agreement in whole or in part unless it finds that the agreement or any material portion thereof discriminates against a non-party carrier or is inconsistent with the public interest. The Board may also establish and enforce other requirements of State law in its review of the agreement under Section 252(e)(3). The Board must act to approve or reject the agreement within 90 days of its submission, or the agreement is deemed approved.³ The 90-day review period mandated by that section for this Agreement ends on December 26, 2006.

The Agreement adopted by Verizon and Comcast sets out the terms and conditions under which Verizon will make certain services available to Comcast. In particular, the Agreement specifies the terms and conditions for resale of Verizon's services, purchasing of unbundled network elements, types of interconnection and collocation agreed to, and compensation arrangements that will apply. The Agreement also reflects recent changes that have resulted from the Federal Communication Commission's "Triennial Review Order" and "TRO Remand Order." The initial term of the adopted Agreement ended on February 9, 2005, but because it continues in force and effect unless terminated by either party, and it has not been terminated, the new Agreement will remain in effect until terminated by either Verizon or Comcast.⁴

The Agreement is the result of arms-length negotiations between two telecommunications carriers. The Board's focus, as the Act provides, is therefore limited to the issues set forth in Section 252(e)(2)(A): whether the Agreement (or portions thereof) discriminates against a telecommunications carrier not a party to the Agreement, and whether the Agreement is consistent with the public interest, convenience, and necessity. As the Board concluded previously, in making its determination, the Board must focus upon the potential effect of the Agreement on the evolution of competition in this state and whether the Agreement raises the risk of harm to consumers (and thus is not consistent with the public interest).⁵

² Under the Act, the Board is the "State Commission" in Vermont. 47 U.S.C.A. § 3(41).

³ 47 U.S.C. § 252(e)(4).

⁴ Agreement at 1.

⁵ Docket 5905, Order of 11/4/96 at 12.

The competition enabled by this and other interconnection agreements will likely benefit Vermont consumers and is consistent with the State's telecommunications goals as set out in 30 V.S.A. § 202c and the Telecommunications Plan adopted under Section 202d. At the same time, the Agreement does not contain terms that will harm consumers or competitors. It thus promotes the public interest.

The Agreement also does not discriminate against telecommunications carriers who are not a party to it. Pursuant to 47 U.S.C. § 252(i), other companies seeking to interconnect may adopt the same terms and conditions.

Finally, our approval of the Agreement applies only to those terms and conditions set out therein. To the extent parties negotiate modifications or clarifications to the Agreement, they are not subsumed in our approval of the current Agreement. To the extent the changes are material, the parties will need to seek additional approvals from the Board.

III. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. Pursuant to Section 252(e)(1) of the Telecommunications Act of 1996, the Interconnection Agreement between Verizon New England Inc., d/b/a Verizon Vermont, and Comcast Phone of Vermont, d/b/a Comcast Digital Phone, is hereby approved.
2. Verizon and Comcast shall be bound to comply with any lawful requirement imposed by the Board in Docket 5713, Docket 5903, any docket or rule established with respect to E-911 service, and any other docket or rulemaking proceeding governing the obligations of telecommunications carriers in Vermont.
3. Verizon and Comcast shall notify the Board and Department of any modifications to the Interconnection Agreement or the establishment of any terms and conditions that the Interconnection Agreement as filed leaves to further negotiations. If necessary, Verizon and Comcast shall seek Board approval for the new or changed terms and conditions.

Dated at Montpelier, Vermont, this 30th day of November, 2006.

<u>s/James Volz</u>	)	PUBLIC SERVICE
)	
	)	BOARD
<u>s/David C. Coen</u>)	
	)	OF VERMONT
)	
<u>s/John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: November 30, 2006

ATTEST: s/Susan M. Hudson
Clerk of the Board

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Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.

Exhibit 3



Beth Choroser
Senior Director, Regulatory Compliance

1500 Market Street
Philadelphia, PA 19102
Tele: (215) 981-7893
Fax: (267) 675-5039

January 10, 2008

VIA OVERNIGHT MAIL

Ms. Michelle Page
Vermont Telephone Company, Inc.
354 River St.
Springfield, VT 05156

***RE: Request of Comcast Phone of Vermont, LLC d/b/a Comcast Digital Phone to
Negotiate an Interconnection Agreement with Vermont Telephone Company, Inc. for the
State of Vermont***

Dear Michelle:

Pursuant to Sections 251(a) and (b) of the Communications Act of 1934, as amended (the "Act"), Comcast Phone of Vermont, LLC, d/b/a Comcast Digital Phone, a Delaware Limited Liability Company ("Comcast"), requests that Vermont Telephone Company, Inc. ("VTel") enter into negotiations with Comcast for an interconnection agreement (the "Agreement") in the state of Vermont. The Agreement should include terms and conditions for interconnection, including but not limited to the following:

1. Direct and indirect network interconnection;
2. Number portability;
3. Reciprocal compensation at "bill and keep;"
4. Access to directory listings and directory assistance; and
5. Access to 911/E911 facilities, if owned or controlled by VTel.

To the extent that VTel does not currently support permanent local number portability ("LNP") in its applicable switches in Vermont, this letter shall also serve as a bona fide request ("BFR") for VTel to open the switches for number portability in the following rate centers:

Bridgewater
Chester
Cuttingsville
Danby
Grafton
Hartland
Middletown Springs

Mount Holly
Pawlet
Saxtons River
Sherburne
Springfield
Wallingford

For the purposes of the negotiation, Comcast represents the following:

1. Comcast represents that it holds a Certificate of Authority to provide competitive local exchange service in the state of Vermont, including in the above exchange.
2. In entering into the Agreement, Comcast does not waive any rights it may have to negotiate or arbitrate amendments to the Agreement, to negotiate a successor agreement or to adopt a replacement agreement should an adoptable agreement become available. In negotiating the Agreement in the state of Vermont, Comcast does not waive any of its rights or remedies under the Act, and such other state and federal law, rules, regulations, and decisions as may be applicable.
3. Notice to Comcast as may be required under the terms of the Agreement shall be provided as follows:

Mr. Brian Rankin
Assistant General Counsel
1500 Market Street
Philadelphia, PA 19102
brian_rankin@comcast.com
Tel: (215) 320-7325
Fax: (267) 675-5039

with a copy to:

Ms. Beth Choroser
Senior Director of Regulatory Compliance
1500 Market Street
Philadelphia, PA 19102
beth_choroser@comcast.com
Tel: (215) 981-7893
Fax: (267) 675-5039

In connection with the negotiation of the Agreement, please contact me as soon as possible at the email address or phone number above to commence these negotiations. If VTel has a template agreement for the purpose of this negotiation, you may send an electronic, editable version of such template to me at the above email address. To the extent that VTel would prefer, Comcast

can provide a template agreement to use as a starting point. For the purposes of Section 252 of the Act, Comcast will consider the start date for negotiations to be January 14, 2008 unless the Parties agree to use an alternate start date.

Please let me know how you wish to proceed and advise me immediately if there is additional information that you require to process this request. Should you have any questions, please contact me at (215) 981-7893.

Sincerely,

A handwritten signature in black ink that reads "Beth Choroser". The signature is written in a cursive, flowing style.

Beth Choroser
Senior Director of Regulatory Compliance

cc: Joyce Gailey (Kelley Drye)
Andrew Fisher (Comcast)
Stacey Parker (Comcast)

Exhibit 4

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7316

Investigation into regulation of Voice over)
Internet Protocol ("VoIP") services)

**PREFILED DIRECT TESTIMONY OF
DAVID KOWOLENKO**

ON BEHALF OF COMCAST PHONE OF VERMONT, LLC

April 7, 2008

Summary:

Mr. Kowolenko describes how Comcast provides its interconnected VoIP service – Comcast Digital Voice and Comcast Business Class Digital Voice – in Vermont. The first part of his testimony explains how the service works, from a network engineering perspective. The second part describes the terms and conditions of the service.

1 Finally, Comcast launched Comcast Digital Voice in portions of its Vermont
2 footprint in June 2007, in order to offer Vermont customers a new choice in
3 competitive voice services.³ Comcast is continuing with the deployment of CDV in
4 Vermont. A more complete description of CDV is provided in the remainder of my
5 testimony.

6
7 **Q. What Comcast entities are involved in providing VoIP services in Vermont?**

8 Response: Comcast Phone of Vermont, LLC, an indirect wholly owned subsidiary
9 of Comcast Corporation, is a Delaware entity registered with the Vermont Secretary
10 of State. Comcast Phone of Vermont, LLC is a CLEC certified to provide intrastate
11 telecommunications service in Vermont pursuant to a Certificate of Public Good
12 ("CPG") granted by the PSB on August 24, 2006 (CPG No. 834-CR). The CPG was
13 granted, consistent with Vermont's stated policies in its State Telecommunications
14 Plan, to bring competition and high quality service to Vermont's residents.

15 Comcast Phone of Vermont, LLC is the entity that enters into
16 interconnection agreements with telecommunications carriers for the exchange of
17 traffic and holds the numbering rights and obligations, pursuant to federal law and
18 numbering regulations. Comcast Phone of Vermont, LLC is the "partner" CLEC,
19 which provides those services on behalf of its customer (and affiliated entity)
20 Comcast IP Phone II, LLC d/b/a Comcast Digital Voice. Comcast IP Phone II,

³ Although not the primary focus of this testimony, I would note that a recent Microeconomic Consulting and Research Associates study commissioned by Comcast estimated that, nationally, the indirect benefit from competition has resulted in an average of \$12.00 per month in savings.

1 LLC is an indirect subsidiary of Comcast Corporation, organized in Delaware and
2 registered with the Vermont Secretary of State. Comcast IP Phone II, LLC is an
3 interconnected VoIP provider that delivers the CDV product to the end-user
4 customer, and is subject to the jurisdiction of the Federal Communications
5 Commission (FCC).

6
7 **Q. Please briefly explain the partnering relationship between Comcast Phone of**
8 **Vermont, LLC and Comcast IP Phone II, LLC.**

9 Response: Comcast IP Phone II, LLC relies on a CLEC partner to provide a variety
10 of services to Comcast IP Phone II, LLC that are not otherwise available. The FCC
11 has recognized this type of partnership, in which a state-certificated CLEC “partner”
12 provides telecommunications services to an interconnected VoIP provider. In fact,
13 in its most recent order extending FCC numbering obligations to interconnected
14 VoIP providers, the FCC noted that such action “may spur consumer demand for
15 [VoIP] service, in turn driving demand for broadband connections and consequently
16 encouraging more broadband investment and deployment...”⁴

17
18 **Q. You have used the term “interconnected VoIP provider” in describing**
19 **Comcast. Please explain that term.**

⁴ *In the Matter of Telephone Number Requirements for IP-Enabled Services Providers*, 22 F.C.C.R. 19531, 19548 at ¶ 29 n. 102 (November 8, 2007).